

**MINUTES
CONSERVATION COMMISSION
TUESDAY, JULY 12, 2011, 7:00 P.M.
HEARING ROOM 3, TOWN HALL, MARSHFIELD, MA**

Members present: Amy Kwesell, Chairman (AK), Susan Caron (SC), Ann Marie Sacchetti (AMS), Mark Stevenson (MS), Jim O'Connell (JO), Walter Greaney (WG), Jay Wennemer, Conservation Agent (JW).

AK motioned to open the meeting, MS second, motion passed 6-0-0.

EXECUTIVE SESSION

AK motioned to go into Executive Session for the discussion of purchasing of real property, to return to open session, MS second: AK – yes, SC – yes, AMS – yes, MS – yes, JO – yes, WG – yes. Motion passed unanimously 6-0-0.

BUSINESS

1. Management of Open Space - Goggin/Little Property
2. Vote & sign Orders of Conditions for closed hearings: Wells Fargo JW passed out draft orders. MS motioned to accept the Orders as drafted, WG second, passed 6-0-0.
3. Commission/Office Policies
4. 941 Summer Street – CR – fine now. Went through Planning.
5. Stafford, Summer Street CR – AK said the State won't accept the CR supplied, as prepared by Atty. Robert Galvin. AK explained to Mr. Stafford that the CR has to be approved by EEOEA and there's a sample on the website. Much faster process to do a deed restriction. AK motioned to revise the Town Special Conditions (E) 'A Conservation Restriction or Deed Restriction approved by the Commission shall be recorded on the deed of the property prior to issuance of any occupancy permit. This Conservation Restriction or Deed Restriction shall perpetually protect the remainder of the lot south and west of the Conservation Restriction Line as shown on the plan from all disturbance or construction of any structure.' SC second, motion passed 6-0-0. AK motioned to have the Conservation Restriction or Deed Restriction recorded within six months of this date. If not done within that time period, fines will be issued without any warning letter. MS second, passed 6-0-0.
6. Scheduled Meetings: Tuesday, August 2, August 16
7. Minutes – May 10, May 24, June 7
8. David White, Standish Street – wetlands violation – hearing closed tonight.
9. Marshhawk Way CR – Town Counsel Marzelli to change one paragraph; then goes to Irene at the State.

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10.Update/Review of Carolina Hill Management Plan.

ENFORCEMENT ORDERS – Updates

Archer, 97 Pilgrim Trail no news

REQCC

- a) 2153 Hoffman, Scituate Ray Precast
- b) 1658 Heaney, 29 Farragut Road
- c) 2266 Hendry, 189 Ridge Road
- d) 2219 Beal/Casa Development, 240 Highland Street
- e) TBL 10-01 Allain, 1790 Ocean Street
- f) 2308 Rugg, Foster Avenue
- g) 2321 Campbell, 78 Atwell Circle
- h) 1687 Clarke, 24 Second Road
- i) 2349 Andrada, 25 Ewell Way

REQDEV

REQEXT

PUBLIC HEARINGS

7:15 2348 White, 34 Standish St. Robert Crawford, E.E.T., suggested alternative analysis. No outstanding issues; will stop mowing wetland. New plan in the file. There is a letter in the file describing what the applicants want to do. We regained wetlands. SC suggested photos of the area before the work is done – still need them. Will put in the orders of conditions. MS motion to close, AMS second, passed 5-0-0 AK with recused.

7:15 2343 Wells Fargo Bank, 77 Keene Road - JW drafted orders and gave them to the Commissioners. Upgrade of septic system approved several years ago and never built. MS motion to close, WG second, passed 5-0-0, AK recused.

7:20 23__ Frye, 141 Pilgrim Road - AK read notice of public hearing. MS hearing officer. No representative present. MS motion to continue to 8 p.m. tonight, AMS second, passed 6-0-0.

7:30 2354 Haddad, 291 Ocean Street - Mr. Haddad, John Zimmer, wetland scientist from South River Environmental and Kevin Grady of Grady Consulting present. AK read meeting notice. MS recused. Mr. Grady reported that Mr. Haddad's property is 2.62 acres, 1.2 of which is upland with an existing restaurant. Resource areas are salt marsh, land subject to flooding, at elevation 10, perennial stream across Joseph Dribeck Way with 100' inner riparian and 200' outer riparian zone cross the property. There exists a single catch basin adjacent to the building with discharge to the salt marsh and also sheet runoff

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across the parking lot – contributing to sedimentation and deterioration of salt marsh over time. Construction of a new restaurant within 100' buffer zone to the salt marsh is proposed, the corner partially located in outer riparian zone and flood zone. Foundation needs to be elevated above 10'. Proposing concrete piers and wall with knock out panels or vents. Mr. Grady stated if the property was on Barrier Beach they would design wooden piles, but he doesn't believe site is in that resource area. Applicant would prefer concrete piers because they would provide enclosure to bottom of building – not exposed to weather and wildlife and wear and tear to building underneath over time. Proposing 51 parking spaces. Storm water management system – several deep sump catch basins, in front and side, through galley and overflow into rain garden on south side of building. Provides 99% TSS removal of storm water; current system provides 0. Applicant requests access to Joseph Dribeck Way over town land; due to the configuration of the lot and to improve circulation within the lot, improve circulation of traffic through the esplanade and to provide emergency vehicle access. This would require 611 sq. ft. of salt marsh on town land to be filled to accomplish the connection. Based on elevations and shallow depth of drainage channel, not feasible to construct bridge and not fill drainage channel. To construct footings that would need to support that structure, would have to dig into salt marsh to put in footings. Applicant is requesting he be allowed 611 sq. ft. of filling and is proposing mitigation. Mitigation areas: 611 sq. ft. salt marsh replication between flags 20 & 25; 3000 sq. ft. restoration removing invasive species and planting native bushes, etc. Proposing over 4,000 sq. ft. restoration of existing vegetation along perimeter of the site. Minimal native plantings there now. Not taking credit for installation of bio (?) retention area. Beach plantings with native plants.

John Zimmer explained the rear resource area is degraded, choked with Phragmites. Variance Request – concept that a portion of the resource area and 25' buffer doesn't function to protect the By-law. Comprehensive mitigation plan that restores that area, dredge, remove Phragmites, plant native vegetation. Going to be protection and will preserve buffer more than it is today. Perennial stream ends in the salt marsh across Joseph Dribeck Way. Restoration of degraded riverfront area. Proposed alteration of about 6,000 sq. ft., all on site except for the Town-owned property to get across Joseph Dribeck Way. AMS asked what will happen to the chain link fence that runs along the wetland edge; area will be restored with native vegetation Mr. Zimmer said.

AK noted applicant would be doing work on land that's owned by DPW. Town Counsel writing to Selectmen to have Town sign on Mr. Grady said. JO stated the property is on a Barrier Beach. Mr. Zimmer said they are looking at definition, made up of coastal dune and coastal beaches. JO – function is degraded, his professional opinion – you're located on Barrier Beach. JW agrees with JO – is a Barrier Beach and said there is a map done by this Commission years ago that adds areas to State-designated Barrier Beaches based on the

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guidance within the document, including this spot. Under By-law, it's Barrier Beach.

Complicated site JO said. Would like to have outside consultant look at this. Selectmen need to make decision first. JO asked if a variance is required for filling salt marsh, and does applicant need to go to the State for filling salt marsh. Mr. Grady stated he thinks that would be necessary for 1,000 square feet and up.

AK asked if the Commission thinks the salt marsh is significant – completely degraded. AK asked how many parking spaces are available at this time. Mr. Haddad said probably 70 but that includes having cars parked right up against the fence and building. Mr. Haddad is proposing having 51 parking spaces for the proposed building. AK asked Mr. Zimmer what Conservation is getting for the 611 sq. ft.; one-to-one Mr. Zimmer said, then 3,000 sq. ft. salt marsh restoration.

WG asked how many detention basins there are now and how many are proposed. Mr. Grady said there is one now, proposing six. JO asked what permits have been applied for; ZBA for site plan review and variance for parking Mr. Grady said.

JW & JO agree this project is on a Barrier Beach under the By-law and suggested hiring an outside consultant who will determine if the Barrier Beach is a functioning Barrier Beach. Also, JW would like a review of the restoration plan and storm water drainage. Or, JO suggested, if the applicant concedes it is a Barrier Beach we'd have the consultant just look at storm water and restoration.

Martha Mullen, resident, said Mr. Haddad is a good neighbor and she's in favor of his proposal.

AK motioned to hire a consultant at applicant's expense, JO second, motion passed 6-0-0. AK motioned to continue to 8/2 at 8:00, WG second, motion passed 6-0-0.

MS returned to the meeting.

7:40 2355 Brown, 29 Oxen Drive - AK read notice of meeting. WG hearing officer. Chris Brown, wife Debra, son Harry present. Mr. Brown is proposing a 15 x 15 foot deck. JW visited site yesterday and noted the edge of wetland shown on plan when house was constructed, part is now used as play yard and storage. Shrubs and some trees have been taken out. Mr. Brown said they bought the house seven years ago and haven't taken out any bushes or shrubs and that no water collects in the area where the wood chips are. AK asked if Mr. Brown has any pictures that show the wood chip area when they bought property, and said she feels if it's been over three years since the purchase Conservation doesn't have any jurisdiction. WG stated the new deck is not any

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closer to wetlands than the old deck is and that's what we're here for tonight. MS stated he thinks the swing set should be moved out of the area, JO agrees with MS & JW. WG okay with leaving it, AMS okay with leaving it, SC and AK okay with leaving it. WG motion to allow the area to grow back, not cut, no maintenance, AK second, passed 6-0-0. WG motion swing set left where it is, all in favor AK – yes, MS – no, SC – yes, WG – yes, JO – no, AMS – yes, SC – yes, motion to leave swing set passes 4-2-0. WG motion to close, JO second, passed 6-0-0.

7:50 2353 Amore, 249 Church Street - AK read notice of public hearing. AK hearing officer. John Amore presented. Property has slopes from Church St. towards back of property. Has been some erosion at rear of property, just up from wetlands. About 15' wide area by 80' has eroded down to where they are losing back yard and can't grow grass. Propose retaining wall across rear of back yard parallel to back of house so approximately 15' of yard can be regained. Concrete wall proposed. Retaining wall not in actual wetlands, but is within 100' of wetlands. Fill with sand, gravel and retaining wall, and allow for drainage. AK asked how far the retaining wall is from edge of wetlands. Mr. Amore said 15 or 20 feet. Need a variance unless he can keep outside 25'. JO suggested cocoanut rolls (?). AK told Mr. Amore he would need to submit a Variance Request for the August 2nd. meeting. MS asked what kind of wall is proposed. Mr. Amore said it is not going to be poured – going to be large concrete blocks. AK motioned to continue to 8/2/11 at 7:30. Need variance by noon on Friday, July 29th. MS second, passed 6-0-0.

7:20 23__ Frye, 141 Pilgrim Road – Hearing had been continued from 7:20 this evening to 8:00; still no representative present. AK motion to continue to 7:15 on 8/2/11, SC second, motion passed 6-0-0.

8:00 23__ Roderick, 20 Rexhame Road - Kevin Maguire, Mrs. Roderick present. AK read notice of meeting. Applicant would like to raise their seawall 2 ½ feet. Original wall built in 1971 or 1972. Orders issued in 1994 for second section of wall. Applicant proposing to pour under existing wall in 10' sections at a time. Machinery would have to be on beach, excavate behind wall, boulders removed. Would go 4" higher than new Town wall. Take stones off front, put them in back. JO - end effect, requires plenty of rip rap. AK said the wall looks fine – not sure why you're here. Mr. Maguire said the applicant wants to increase the height because the water comes up over the wall and is causing erosion in the north corner and damaging the lawn.

Charles Pesko, 53 Kent Avenue, owns adjacent land. He and some of the neighborhood association have put thousands of dollars into vegetation that is all washed out already – being used as path to the beach. Tremendous impact from the wall already, long waves coming in front of the wall. Opposed to anybody adding anything to the wall.

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Karen Slawson – need a study to tell us what's going to happen in that area; there is significant erosion there. What will construction of that wall do to our properties on the north side of that wall? AK stated there is no way any work can be done to the north side of the wall without having abutters sign off. Unless footing doesn't extend that far Kevin said. JO – the property boundary on the other side has the same situation. AK – taking the height of the wall – wall's already there – going to be working on the beach within a resource area. The Commission is in receipt of a written request from the DPW that 'in any Order of Conditions, the proponent be required to conduct his work in a manner that will not interfere with the Town Project for Phase II of the Surf Ave. seawall in any manner, including access, time schedule and construction.'

Mr. Maguire said work would be done at low tide and tide cycle when not at the maximum. A good sized rubber tired back hoe or small excavator would be used. Southern portion of the lot is owner unknown. Original wall permitted in 75; extension in 1995. Also some violation letters in the file – property issue at one point. Mr. Maguire said they can do away with proposed increase of footing; all work would be done on Roderick's property.

Barbara Bennett, 58 Vincent Drive – agrees with JO's comments and said she can cite what happens with sea walls, rip rap and erosion. If this wall isn't in danger, why this project? Charles Pesko – whatever you do to this wall will impact our property and escalate the erosion of our properties. This has happened already and will just make it worse.

Mrs. Roderick said the walls have been there a long time and the beach has been changing over the last few years – not because of the wall.

Karen Slawson – long stretch not elevated to 4'; two or three streets not covered. Does that cause a difference in the way the sand shifts, because of the different levels? Mr. Maguire said the Town issued two contracts for the wall - phase 1 and phase 2. Will raise to same height when finished.

Mr. Pesko asked if there is a possibility of a study being done. AK stated the Commission cannot consider this project until we have all information in front of us. MS asked Mr. Maguire about the contours 14, 16 – is that erosion due to undermining or getting washed over the top. Mr. Maguire said he believes it's a combination of both. Fill behind wall is sandy gravel. MS asked if they are proposing to raise the grade within the wall; Mr. Maguire said they are, wall will be 2.5 grade inside, 1.5 higher. AK noted this work is not in the public notice; nothing about the yard being raised. JW – wherever the top of the wall is, at or above the grade of the property behind it water pools against the wall. If soil is at or above the top of the wall, water flows over the wall back to the beach. You don't see the undermining. Would you consider creating an artificial dune on top of existing wall and planting with beach grass – cheaper than concrete and more effective. All work would be on Roderick property.

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Mr. Maguire said the Roderick's are thinking of a fence behind the wall. WG would like to see if the height of the wall does effect scouring. JW – JO is acknowledged expert in his field. WG – any evidence behind that, or just opinion? AK informed Mr. Maguire that he needs to find out if work can go on the other properties and if not, are they still going ahead with the wall.

AK motion to continue to 8/16 at 8:00, MS second, motion passed 6-0-0.

AK motioned to adjourn at 10:20 p.m., MS second, motion passed 6-0-0.

Respectfully submitted,
Lois Keenlside
Marshfield Conservation Commission